

SENATE BILL No. 49

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2-1; IC 9-13-2-77.5; IC 9-20-18-4; IC 9-25-4-1; IC 9-30-16.

Synopsis: Motor vehicle impoundment. Allows a police agency to impound for 30 days the vehicle of a driver who is subject to arrest for: (1) operation of a motor vehicle or combination of vehicles when the driver's license is suspended; (2) operation of a motor vehicle or combination of vehicles when the driver's license has been revoked; (3) operation of a motor vehicle or combination of vehicles in violation of the terms and conditions specified in a restricted license or a probationary license; (4) operation of a motor vehicle or combination of vehicles when the driver does not hold a driver's license; (5) operation of a motor vehicle or combination of vehicles when financial responsibility is not in effect with respect to the vehicle; or (6) operation of a vehicle or combination of vehicles while intoxicated.
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Effective: July 1, 1999.

Meeks R

January 6, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.



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Digest Continued

Allows release of the vehicle to the owner before the end of the impoundment period if the vehicle has been stolen or leased to the driver or a third party. Allows release of the vehicle before the end of the impoundment period after a hearing by the court. Allows the vehicle to be declared abandoned if the vehicle is not retrieved at the end of the 30 day impoundment period. Allows a local governmental unit to provide by ordinance for a service fee for impoundment of the vehicle. Allows the driver of a vehicle with cargo to notify a person having a monetary interest in the cargo and allows the cargo to be released to that person or agent. Makes conforming changes in definitions concerning vehicles.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 49

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. "Abandoned vehicle" means the
3 following:
4 (1) A vehicle located on public property illegally.
5 (2) A vehicle left on public property without being moved for
6 three (3) days.
7 (3) A vehicle located on public property in such a manner as to
8 constitute a hazard or obstruction to the movement of pedestrian
9 or vehicular traffic on a public right-of-way.
10 (4) A vehicle that has remained on private property without the
11 consent of the owner or person in control of that property for more
12 than forty-eight (48) hours.
13 (5) A vehicle from which the engine, transmission, or differential
14 has been removed or that is otherwise partially dismantled or
15 inoperable and left on public property.



(6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal **or after the thirty (30) day impoundment hold placed on the vehicle under IC 9-30-16-2.**

(7) A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days.

SECTION 2. IC 9-13-2-77.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 77.5. "Impoundment", for purposes of IC 9-18-2-43, IC 9-20-18, 9-22-1-20, and IC 9-30-16, means the seizure and confinement of a vehicle, or a vehicle and its contents, by a police officer.**

SECTION 3. IC 9-13-2-121 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 121. (a) "Owner" means, except as otherwise provided in this section, when used in reference to a motor vehicle:

- (1) a person who holds the legal title of a motor vehicle;
- (2) a person renting or leasing a motor vehicle and having exclusive use of the motor vehicle for more than thirty (30) days;
- or
- (3) if a motor vehicle is the subject of an agreement for the conditional sale or lease vested in the conditional vendee or lessee, or in the event the mortgagor, with the right of purchase upon the performance of the conditions stated in the agreement and with an immediate right of possession of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor.

(b) "Owner", for purposes of IC 9-21 and IC 9-25, means, when used in reference to a motor vehicle, a person who holds the legal title of a motor vehicle, or if a:

- (1) motor vehicle is the subject of an agreement for the conditional sale or lease of the motor vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee; or
- (2) mortgagor of a motor vehicle is entitled to possession;

the conditional vendee or lessee or mortgagor is considered to be the owner for the purpose of IC 9-21 and IC 9-25.



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(c) "Owner", for purposes of IC 9-22-1 **and 9-30-16**, means the last known record titleholder of a vehicle according to the records of the bureau under IC 9-17.

(d) "Owner", for purposes of IC 9-31, means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person reserved or created by agreement and securing payment or performance of an obligation. The term excludes a lessee under a lease not intended as security.

SECTION 4. IC 9-20-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. A person who moves a vehicle or combination of vehicles after the vehicle or combination of vehicles is impounded **under this chapter or IC 9-30-16 without authority to do so** commits a Class B misdemeanor.

SECTION 5. IC 9-22-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The bureau shall be notified within seventy-two (72) hours of the **following**:

(1) The location and description of a vehicle described in section 5 of this chapter.

(2) **The conclusion of the thirty (30) day impoundment hold placed on the vehicle under IC 9-30-16-2.**

(b) Upon receipt of notification, the bureau shall cause a search to be made to determine and notify the person who owns the vehicle under section 20 of this chapter.

SECTION 6. IC 9-25-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) A person may not:

(1) register a vehicle; or

(2) operate a vehicle on a public highway;

in Indiana if financial responsibility is not in effect with respect to the motor vehicle under section 4 of this chapter.

(b) A person who violates this section is subject to the suspension of the person's current driving license or vehicle registration, or both, under this article.

(c) **A person who violates this chapter is subject to the impoundment procedure under IC 9-30-16.**

SECTION 7. IC 9-30-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 16. Motor Vehicle Impoundment

Sec. 1. A person may not operate or cause to be operated a vehicle or combination of vehicles upon an Indiana highway when the person is subject to arrest for any of the following:



(1) Operation of a motor vehicle or combination of vehicles when the persons' driver's license is suspended under IC 9-30-4.

(2) Operation of a motor vehicle or combination of vehicles when the person's driver's license has been revoked under IC 9-30-4.

(3) Operation of a motor vehicle or combination of vehicles in violation of the terms and conditions specified in a restricted license (as defined in IC 9-13-2-154) or a probationary license under IC 9-30-5-11 or IC 9-24-11-3.

(4) Operation of a motor vehicle or combination of vehicles when the Indiana resident does not hold a valid Indiana license under IC 9-24-1 or, if a nonresident, a valid operator's license issued in the nonresident's home state or country.

(5) Operation of a motor vehicle or combination of vehicles when financial responsibility is not in effect with respect to the vehicle under IC 9-25-4.

(6) Operation of a vehicle or combination of vehicles when intoxicated, a violation of IC 9-30-5.

Sec. 2. (a) If a police officer determines that a person is operating a vehicle when the person is subject to arrest for a violation under section 1 of this chapter, the police officer may impound the vehicle.

(b) The arrest of the vehicle operator by the police officer is not necessary for the vehicle to be impounded.

(c) An impounded vehicle shall be confined by the police agency or designated agent for thirty (30) days.

Sec. 3. A motor vehicle operator who is not the registered owner of the vehicle that was subject to impoundment under section 2(a) of this chapter shall notify by certified mail the registered owner and any lienholder of the impoundment within five (5) days of the action taken in section 1 of this chapter, including the following information:

(1) The date of impoundment.

(2) The place of impoundment.

(3) The name of the person operating the vehicle at the time of the impoundment.

(4) The violation leading to the impoundment.

(5) The location where the vehicle is impounded.

(6) A statement that the registered owner is responsible for payment of towing, storage, and service fees charged against the vehicle.



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(7) The method by which the impounded vehicle may be released, as provided in sections 4 through 6 of this chapter.

Sec. 4. (a) The impounding police agency shall release a vehicle to the registered owner or agent before the end of the thirty (30) day period if:

(1) the owner provides proof or files a notice that the vehicle had been stolen; or

(2) the vehicle had been leased to the driver or a third party and the lessor owner provides proof to the impounding agency of the leasing agreement.

(b) The registered owner or agent shall pay all towing and storage fees related to the impoundment before the vehicle is released.

(c) A motor vehicle may not be released under this section without presentation of the registered owner's or agent's valid driver's license and proof of current vehicle registration.

(d) The registered owner or agent may seek reimbursement of towing and storage charges and other incidental charges related to the retrieval of the vehicle from the driver of the vehicle at the time of the impoundment.

Sec. 5. Notwithstanding section 2(c) of this chapter, after a hearing before the court of jurisdiction for the underlying criminal offense, a vehicle impounded under this chapter may be released to:

(1) the registered owner, a registered co-owner, or the spouse of the owner upon good cause shown to the court that the continued impoundment of the motor vehicle would cause a substantial hardship upon the petitioning party; or

(2) the holder of a bona fide lien on the vehicle executed before the impoundment when possession of the vehicle is requested for the purpose of foreclosing and satisfying the lien on the motor vehicle.

Sec. 6. (a) After thirty (30) days from the date of the impoundment, the impounding police agency shall release the vehicle to the registered owner or the owner's agent after satisfaction of the following:

(1) The registered owner or the owner's agent pays all towing and storage fees related to the impoundment.

(2) The registered owner or agent presents a valid driver's license and proof of vehicle registration.

(b) The registered owner or agent may seek reimbursement of the towing and storage charges and other incidental charges

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1 related to the retrieval of the vehicle from the driver of the vehicle
2 at the time of the impoundment.

3 Sec. 7. A vehicle impounded under this chapter is subject to
4 IC 9-22-1 if the registered owner of the vehicle or the owner's
5 agent does not pay all costs against the vehicle and retrieve the
6 vehicle after the thirty (30) day period set forth in section 2(c) of
7 this chapter.

8 Sec. 8. The following are not liable for loss or damage to a
9 vehicle or parts occurring during the removal, storage, or
10 disposition of a vehicle or parts under this chapter:

11 (1) A person who owns, leases, or occupies property from
12 which an impounded vehicle is removed.

13 (2) A local authority.

14 (3) The state.

15 (4) A towing service.

16 (5) An automobile scrapyard.

17 Sec. 9. This chapter does not prohibit a local authority from
18 imposing a service fee for the impoundment of a vehicle as
19 authorized by local ordinance.

20 Sec. 10. This chapter does not authorize impounding any part of
21 the cargo of an impounded vehicle or combination of vehicles.

22 Sec. 11. (a) The driver of an impounded vehicle or combination
23 of vehicles shall notify the shipper or a person having a monetary
24 interest in the cargo or vehicle or combination of vehicles of the
25 location of the cargo. The impounding police officer shall give the
26 driver reasonable opportunity to make the notification.

27 (b) The owner of the cargo of the impounded vehicle or the
28 owner's agent may repossess the cargo at any time upon
29 presentation of proof of ownership to the impounding police
30 agency.

31 Sec. 12. A police officer may not stop a vehicle for the purpose
32 of determining whether the vehicle is being operated illegally under
33 section 1 of this chapter.

34 Sec. 13. A person who violates section 3 of this chapter commits
35 a Class C infraction.
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